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MEMO ENDORSED

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August 18, 2017

VIA ECF

Honorable Colleen McMahon  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 11201

Re: Jonathan Harris v. City of New York, et al.,  
15-CV-08456 (CM)(RLE)

Your Honor:

I am the Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department, assigned to represent defendants in the above-referenced matter. Defendants write to request an extension of the deadline within which to file a Joint Pretrial Order and any dispositive motion from August 30, 2017 to and including the time defendants must answer or otherwise respond to plaintiff's Third Amended Complaint. Plaintiff's counsel Gabriel Harvis, Esq. opposes the extension of the existing deadlines. Plaintiff's counsel states that "plaintiff opposes any extension of the existing schedule, as the officers' answers are unrelated to the JPTO, which plaintiff has already begun to prepare, or any motion, and plaintiff would like to bring his claims to trial as quickly as possible."

On July 28, 2017 plaintiff filed leave to amend the Complaint with the court to add one defendant and remove one defendant. On August 16, 2017 the Court endorsed the motion but declined to reopen discovery in this matter. Plaintiff filed his Third Amended Complaint on August 17, 2017 but the newly named defendant has not been served yet. Assuming the individual officer is both served and requests legal representation by this Office, pursuant to Section 50-k of the New York General Municipal Law, we must determine, based on a review of the case, whether we can provide representation to the individual defendant, and that individual must then determine whether they wish to be represented by this Office. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). If the Individual City employee does elect to be represented, we must obtain his written authorization.

*Colleen McMahon*

8/21/17

*Look, if the plaintiff wants this case to go forward he must serve the new defendant by 8/31. The city should know by 9/15 whether it will represent this individual. It already knows the case.*

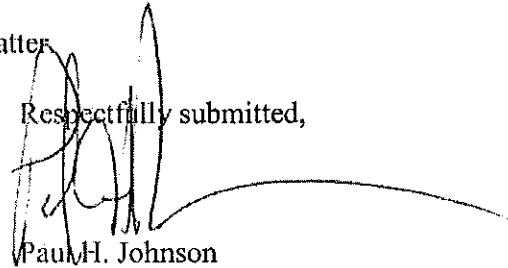
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Defendants state it would be premature to file a Joint Pretrial Order or any dispositive motion before the City can determine whether to represent the newly named defendant and whether the newly named defendant wishes to be represented by the City. Finally, defendants have not received all the transcripts of the depositions conducted by plaintiff and therefore cannot properly prepare either a dispositive motion or a joint pretrial order.

For the foregoing reasons, defendants request the Court extend the time to file the Joint Pretrial Order and any dispositive motion from August 31, 2017 to and including the time the newly named defendants must answer or otherwise respond to the Complaint.

Thank you for your consideration in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul H. Johnson', with a long horizontal flourish extending to the right.

Paul H. Johnson  
Assistant Corporation Counsel  
Special Federal Litigation Division

To: VIA ECF  
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